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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,876	02/06/2006	Yasuhiro Nose	273032US8 PCT	8328
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
KEEFE, MICHAEL E				
ART UNIT		PAPER NUMBER		
2454				
NOTIFICATION DATE		DELIVERY MODE		
06/10/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/536,876

Applicant(s)

NOSE ET AL.

Examiner

MICHAEL E. KEEFER

Art Unit

2454

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 May 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. This Office Action is responsive to the Amendment filed 11/17/2008.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishimura et al. (US 20020026512), hereafter Nishimura in view of Gatto et al. (US 20040193726), hereafter Gatto.

Regarding **claim 1**, Nishimura discloses:

the communication terminal comprising comprises :

reservation candidate acquiring means for transmitting to the server a transmission request for transmission of reservation candidate information containing time information indicating at least a start time concerning each candidate time zone to which a reservation for download of the data can be allocated, and for acquiring the reservation candidate information transmitted in response to the request by the server; (see Fig. 21, steps Sb1 and Sb3 show the request for information, and the receipt of that information. See also [0152])

reservation selecting means for transmitting to the server reservation choice information containing as reservation time information the time information selected based on the reservation candidate information acquired by the reservation candidate acquiring means, and for storing the start time indicated by the reservation time information, as an initiation time of the download; (See Fig. 22, also [0154])

the server comprising:

reservation information storing means for storing a reservation table in which the reservation for the download is to be allocated to reservation frames within a maximum number at each time to permit simultaneous execution of the download, set based on a load state at each time preliminarily measured; (see Fig. 12, reservation database 151, see also [0119])

reservation candidate generating means for, in response to the transmission request for the transmission of the reservation candidate information transmitted by the communication terminal, determining time zones as candidates available for the download of the data, based on the reservation table stored in the reservation information storing means, for generating the reservation candidate information containing the time information about the time zones, and for transmitting the reservation candidate information to the communication terminal; (See [0155]-[0156], where information from the reservation database is

presented to the user so that the user sees which times are free for broadcast - see also Fig. 22)

reservation registering means for receiving the reservation choice information transmitted by the communication terminal, and for registering in the reservation table the reservation for the download in the time zone corresponding to the reservation time information included in the reservation choice information; (see [0154], and Fig. 22, which disclose reservation input column 222, and button 223, which allow the user to select a time slot)

Nishimura does not appear to explicitly disclose:

the terminal comprising:

data request transmitting means for transmitting a transmission request for transmission of the data to the server, at the initiation time stored by the reservation selecting means; and

data receiving means for receiving the data transmitted by the server in accordance with the transmission request for transmission of the data transmitted by the data request transmitting means;

the server comprising:

data transmitting means for transmitting to the communication terminal the data stored in the data storing means, in response to the transmission request for transmission of the data transmitted by the communication terminal.

The general concept of a terminal needing to schedule a download in advance and then downloading that data from the server at a specific time is well known in the art as taught by Gatto. (See [0005].)

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the reservation system of Nishimura with the general concept of a terminal needing to schedule a download in advance, and then downloading that data from the server at a specific time as taught by Gatto in order to allow the server more control over the scheduling of downloads and bandwidth. (See [0005].)

Regarding **claim 2**, Nishimura discloses:

The download system according to Claim 1, wherein, in generating the reservation candidate information, the reservation candidate selecting means of the server temporarily allocates in the reservation table, reservations for the download corresponding to the time information included in the reservation candidate information, together with information to identify the communication terminal having transmitted the transmission request for transmission of the reservation candidate information, and wherein the reservation registering means adopts the reservation in the time zone corresponding to the reservation time information included in the reservation choice information transmitted by the communication terminal, among the reservations temporarily allocated together with the information to identify the communication terminal, in the reservation table, and cancels the other reservations temporarily allocated together with the

information to identify the communication terminal, in the reservation table. (see [0149] where reservations may be temporary unless confirmed by a user)

Regarding **claim 3**, Nishimura discloses:

The download system according to Claim 1, wherein, in generating the reservation candidate information, the reservation candidate generating means of the server generates the reservation candidate information preferentially contain the time information about time zones with a large number of said reservation frames to which the reservation for the download is not allocated, based on the reservation table. (see [0126], [0127])

Regarding **claim 4**, Nishimura discloses:

The download system according to Claim 1, wherein the communication terminal further comprises available range acquiring means for transmitting to the server a transmission request for transmission of available range information containing information about presence/absence of a time zone available for the reservation for the download in each of second predetermined periods obtained by subdividing a first predetermined period, and for receiving the available range information transmitted from the server, wherein the server further comprises available range generating means for generating the available range information in accordance with the transmission request for transmission of the available range information transmitted by the communication terminal, and for transmitting the available range information to the communication terminal, wherein the reservation candidate acquiring means transmits to the server the transmission

request for transmission of the reservation candidate information containing the information about the second predetermined period selected based on the available range information received by the available range acquiring means, and wherein the reservation candidate generating means generates the reservation candidate information containing the time information about time zones available for the reservation for the download in the second predetermined period, based on the information about the second predetermined period included in the transmission request for transmission of the reservation candidate information transmitted by the communication terminal, and transmits the reservation candidate information to the communication terminal. (See Fig. 22, [0154]-[0156]. The system displays a calendar, and when a calendar date is selected time zones for that date are displayed to the user. Thus, this information is requested by the user, and delivered by the server.)

Regarding **claim 5**, Nishimura discloses:

The download system according to Claim 4, wherein the available range information generated by the available range generating means contains level information indicating a number of said reservation flames to which the reservation for the download is not allocated, in each of the second predetermined periods. ((See Fig. 22, [0154]-[0156]. The system displays a calendar, and when a calendar date is selected time zones for that date are displayed to the user. Note that specific free and busy times are indicated for each date.)

Regarding **claim 6**, Nishimura discloses:

The download system according to Claim 4, wherein the available range information generated by the available range generating means is comprised of a list indicating binary values of the information about the presence/absence of a time zone available for the reservation for the download in each of the second predetermined periods. ((See Fig. 22, [0154]-[0156]. The system displays a calendar, and when a calendar date is selected time zones for that date are displayed to the user. Note that specific free and busy times are indicated for each date.)

Regarding **claim 7**, Nishimura discloses:

The download system according to Claim 4, wherein the available range information generated by the available range generating means is comprised of a list resulting from further text conversion of a list indicating binary values of the information about the presence/absence of a time zone available for the reservation for the download in each of the second predetermined periods. (See Fig. 22, [0154]-[0156]. The system displays a calendar, and when a calendar date is selected time zones for that date are displayed to the user. Note that specific free and busy times are indicated for each date.)

Claims 8-23 present limitations similar to those in claims 1-7 and thus are rejected for similar reasons.

Response to Arguments

5. Applicant's arguments with respect to claims 1-23 have been considered but are moot in view of the new ground(s) of rejection.
6. The Examiner has maintained the use of the Nishimura reference - and has expressly admitted that which Applicant has asserted in the current arguments - Nishimura does not **anticipate** the claims because Nishimura does not disclose that the scheduler downloads data at the scheduled time, but rather uploads data to be broadcast at the scheduled time. However, the remainder of Applicant's arguments directed to the combination of Nishimura and Takihiro are moot, as the Examiner is not relying on Takihiro in the present rejections.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL E. KEEFER whose telephone number is (571)270-1591. The examiner can normally be reached on Monday through Friday 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MEK 6/6/2009

/DUSTIN NGUYEN/
Primary Examiner, Art Unit 2454